

Remarks

All of the claims, i.e., claims 1, 3-11 and 15-43, in this application were allowed and a notice of allowance issued on 11/20/06 and the issue fee paid shortly thereafter. In the office action of March 22, 2007, the Examiner states (page 2, paragraph 1) “The indicated allowability of claims 1, 3-11 and 15-43 is withdrawn...” (emphasis ours). Regarding the issuance of a formal notice of allowance (35 U.S.C. section 151 Issue of Patent), the statute in issue states “If it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee or a portion thereof, which shall be paid within three months thereafter. Upon payment of this sum the patent shall issue, but if payment is not timely made, the application shall be regarded as abandoned.”

A formal notice of allowance was mailed to the applicant on November 20, 2006. The issue fee was paid on January 22, 2007. On January 9, 2007, the PTO had issued a Notice of Withdrawal From Issue (emphasis ours). Apparently the issue fee was paid without note having been taken of the withdrawal from issue. In any event, the Examiner refers to “indicated allowability.” In order to avoid any misunderstanding, it is the applicant’s position that the claims were allowed which is more than indicated as allowable. The office on March 22, 2007 issued a further office action in which claims 15-18, 42 and 43 were allowed and claims 3-7, 11, 22, 25, 31 and 40 objected to and claims 1, 8-10, 19-21, 23, 24, 26-30, 32-39 and 41 rejected on newly cited art. In the above proffered amendment, independent claims 1, 23, 29, 35, 37, 39 and 41 have been amended to incorporate therein the language of objected to claims, i.e., claim 1

incorporates claim 3, claim 23 incorporates claim 25, claim 29 incorporates claim 31, claim 35 incorporates claim 25, claim 37 incorporates claim 25, claim 39 incorporates claim 40 and claim 41 incorporates claim 3. In addition, the amendment cancels claims 3, 10, 21, 25, 27, 31, 33, 34 and 40. The incorporated subject matter in each case is derived from a claim which had been listed as objected to.

The Examiner has advised on page 8, paragraph 2 that the claims were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form... This has now been done.

It is submitted that all of the claims in the case as amended are allowable and notification to this effect is respectfully requested.

There is no need to discuss the prior art since the cited art as applied is not relevant to the amended claims.

Entry of the proffered amendment and a new notice of allowance are requested.

Respectfully Submitted,
Attorney for Applicant

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/evelyn m. sommer/
Joshua S. Broitman
Registration No. 38,006
Evelyn M. Sommer
Registration No. 19, 603
OSTRAGER CHONG FLAHERTY AND
BROITMAN, PC
570 Lexington Avenue, 17th Floor
New York, NY 10022-6894
Phone: (212) 681-0600
Customer Number: 64722